

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke  
Probation Against:

JOHN GABRIEL MONTEZ  
400 Duboce Avenue, Apt. 311  
San Francisco, CA 94117

Registered Nurse License No.580266

Respondent

Case No. 2003 - 132

**DEFAULT DECISION AND ORDER**

The attached Default Decision and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on **May 1, 2008**.

IT IS SO ORDERED **April 1, 2008**.



President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 FRANK H. PACOE, State Bar No. 91740  
Supervising Deputy Attorney General  
3 455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
4 Telephone: (415) 703-5556  
Facsimile: (415) 703-5480

5 Attorneys for Complainant

7 **BEFORE THE**  
8 **BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Petition to Revoke Probation  
Against:

Case No. 2003-132

12 JOHN GABRIEL MONTEZ  
400 Duboce Avenue, Apt. 311  
San Francisco, California 94117

**DEFAULT DECISION  
AND ORDER**

13 Registered Nurse License No. 580266

[Gov. Code, §11520]

14 Respondent.

15 FINDINGS OF FACT

16  
17 1. On or about March 26, 2007, Complainant Ruth Ann Terry, M.P.H., R.N.,  
18 in her official capacity as the Executive Officer of the Board of Registered Nursing, Department  
19 of Consumer Affairs, filed Petition to Revoke Probation No. 2003-132 against John Gabriel  
20 Montez (Respondent) before the Board of Registered Nursing.

21 2. On or about April 26, 2001, the Board of Registered Nursing (Board)  
22 issued Registered Nurse License No. 580266 to Respondent. The Registered Nurse License was  
23 in full force and effect at all times relevant to the charges brought herein and the license expired  
24 on February 28, 2007, and has not been renewed.

25 3. On or about March 27, 2007, Gloria Briones, an employee of the  
26 Department of Justice, served by Certified and First Class Mail a copy of the Petition to Revoke  
27 Probation No. 2003-132, Statement to Respondent, Notice of Defense, Request for Discovery,  
28 and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record

1 with the Board, which was and is 400 Duboce Avenue, Apt. 311 San Francisco, California  
2 94117. A copy of the Petition to Revoke Probation is attached as Exhibit A, and is incorporated  
3 herein by reference.

4 4. Service of the Petition to Revoke Probation was effective as a matter of  
5 law under the provisions of Government Code section 11505, subdivision (c).

6 5. On or about June 19, 2007, a copy of the Petition to Revoke Probation that  
7 was served via certified mail was returned by the U.S. Postal Service.

8 6. Government Code section 11506 states, in pertinent part:

9 "(c) The respondent shall be entitled to a hearing on the merits if the respondent  
10 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the  
11 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of  
12 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

13 7. Respondent failed to file a Notice of Defense within 15 days after service  
14 upon him of the Petition to Revoke Probation, and therefore waived his right to a hearing on the  
15 merits of Petition to Revoke Probation No. 2003-132.

16 8. California Government Code section 11520 states, in pertinent part:

17 "(a) If the respondent either fails to file a notice of defense or to appear at the  
18 hearing, the agency may take action based upon the respondent's express admissions or upon  
19 other evidence and affidavits may be used as evidence without any notice to respondent."

20 9. Pursuant to its authority under Government Code section 11520, the Board  
21 finds Respondent is in default. The Board will take action without further hearing and, based on  
22 Respondent's express admissions by way of default finds that the allegations in Petition to  
23 Revoke Probation No. 2003-132 are true.

24 10. The total costs for investigation and enforcement are \$2,806.00 as of  
25 January 16, 2008.

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1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent John Gabriel Montez  
3 has subjected his Registered Nurse License No. 580266 to discipline.

4 2. A copy of the Petition to Revoke Probation and the related documents and  
5 Declaration of Service are attached.

6 3. The agency has jurisdiction to adjudicate this case by default.

7 4. The Board of Registered Nursing is authorized to revoke Respondent's  
8 Registered Nurse License based upon the following violations alleged in the Petition to Revoke  
9 Probation, in that:

10 a. Respondent failed to comply with Probation Condition Term  
11 Number 1, the requirement that he obey all federal, state and local laws.

12 b. Respondent failed to comply with Probation Condition Term  
13 Number 2, the requirement that he fully comply with the conditions of the probation program and  
14 cooperate with Board representatives in their monitoring and investigation of his compliance  
15 with the probation program.

16 c. Respondent failed to comply with Probation Condition Term  
17 Number 3, the requirement that he appear in person at interviews/meetings as directed by the  
18 Board or its designated representatives.

19 d. Respondent failed to comply with Probation Condition Term  
20 Number 5, the requirement that he submit written reports/declarations and verification of actions  
21 under penalty of perjury.

22 e. Respondent failed to comply with Probation Condition Term  
23 Number 11, the requirement that he pay the Board the amount of \$4,530.50.

24 f. Respondent failed to comply with Probation Condition Term  
25 Number 14, the requirement that he have a licensed physician, nurse practitioner, or physician  
26 assistant submit an assessment of his physical condition and capability to perform the duties of a  
27 registered nurse.

28 g. Respondent failed to comply with Probation Condition Term

1 Number 15, the requirement that he successfully complete during the probationary period or  
2 have had successfully completed prior to the commencement of probation a Board-approved  
3 treatment/rehabilitation program of at least six months duration.

4 h. Respondent failed to comply with Probation Condition Term  
5 Number 16, the requirement that he completely abstain from the possession, injection or  
6 consumption of all controlled substances and all psychotropic (mood altering) drugs, including  
7 alcohol.

8 i. Respondent failed to comply with Probation Condition Term  
9 Number 17, the requirement that he participate in a Board-approved random, biological fluid  
10 testing or a drug screening program.

11 ORDER

12 IT IS SO ORDERED that Registered Nurse License No. 580266, heretofore  
13 issued to Respondent John Gabriel Montez, is revoked.

14 Pursuant to Government Code section 11520, subdivision (c), Respondent may  
15 serve a written motion requesting that the Decision be vacated and stating the grounds relied on  
16 within seven (7) days after service of the Decision on Respondent. The agency in its discretion  
17 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the  
18 statute.

19 This Decision shall become effective on MAY 1, 2008.

20 It is so ORDERED APRIL 1, 2008

21  
22 *LaTranene W. Tate*  
23 FOR THE BOARD OF REGISTERED NURSING

24  
25  
26 20113635.wpd

DOJ docket number: SF2006402340

27 Attachment:

28 Exhibit A: Petition to Revoke Probation No.2003-132

Exhibit A

Petition to Revoke Probation No. 2003-132

1 EDMUND G. BROWN JR, Attorney General  
of the State of California  
2 FRANK H. PACOE, State Bar No. 91740  
Supervising Deputy Attorney General  
3 California Department of Justice  
455 Golden Gate Avenue, Suite 11000  
4 San Francisco, CA 94102-7004  
Telephone: (415) 703-5556  
5 Facsimile: (415) 703-5480

6 Attorneys for Complainant

7 **BEFORE THE**  
8 **BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Petition to Revoke Probation  
Against:

Case No. 2003-132

12 JOHN GABRIEL MONTEZ  
400 Duboce Avenue, Apt. 311  
San Francisco, California 94117

**PETITION TO REVOKE  
PROBATION**

13 Registered Nurse License No. 580266

14 Respondent.  
15

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Petition to  
20 Revoke Probation solely in her official capacity as the Executive Officer of the Board of  
21 Registered Nursing, Department of Consumer Affairs.

22 2. On or about April 26, 2001, the Board of Registered Nursing issued  
23 Registered Nurse License Number 580266 to John Gabriel Montez (Respondent). The registered  
24 nurse license was in effect at all times relevant to the charges brought herein and will expire on  
25 February 28, 2007, unless renewed.

26 3. In a disciplinary action entitled "In the Matter of Accusation Against John  
27 Gabriel Montez," Case No. 2003-132, the Board of Registered Nursing, issued a decision,  
28 effective June 13, 2004, in which Respondent's registered nurse license was revoked. However,

1 the revocation was stayed and Respondent's registered nurse license was placed on probation for  
2 a period of five (5) years with certain terms and conditions. A copy of that decision is attached  
3 as Exhibit A and is incorporated by reference.

#### 4 JURISDICTION

5 4. This Petition to Revoke Probation is brought before the Board of  
6 Registered Nursing (Board), Department of Consumer Affairs, under the authority of the  
7 following laws. All section references are to the Business and Professions Code unless otherwise  
8 indicated.

#### 9 FIRST CAUSE TO REVOKE PROBATION

##### 10 (Obey All Laws)

11 5. At all times after the effective date of Respondent's probation, Condition  
12 No. 1 stated:

13 Respondent shall obey all federal, state and local laws . A full and detailed  
14 account of any and all violations of law shall be reported by Respondent to the  
15 Board in writing within seventy-two (72) hours of occurrence. To permit  
16 monitoring of compliance with this condition, Respondent shall submit completed  
17 fingerprint forms and fingerprint fees within 45 days of the effective date of the  
18 decision, unless previously submitted as part of the licensure application process.

19 6. Respondent's probation is subject to revocation because he failed to  
20 comply with Probation Condition No. 1, referenced above. The facts and circumstances  
21 regarding this violation are as follows:

22 A. On or about October 22, 2005, respondent failed to obey all laws in  
23 that he committed petty theft by stealing a cellular phone charger from 4D Wireless, a cellular  
24 phone retailer in Dublin, California.

25 B. On or about December 1, 2005, respondent failed to obey all laws  
26 in that he was convicted of a crime in a criminal proceeding entitled People of the State of  
27 California v. John Gabriel Montez in the Superior Court of California, County of Alameda, Case  
28 Number 117378, the Respondent was convicted by plea of guilty for violating Penal Code

1 section 484(a) (Petty Theft), a misdemeanor.

2 SECOND CAUSE TO REVOKE PROBATION

3 (Comply with the Board's Probation Program)

4 7. At all times after the effective date of Respondent's probation, Condition  
5 No. 2 stated:

6 Respondent shall fully comply with the conditions of the Probation Program  
7 established by the Board and cooperate with representatives of the Board in its  
8 monitoring and investigation of the Respondent's compliance with the Board's  
9 Probation Program. Respondent shall inform the Board in writing within no more  
10 than 15 days of any address change and shall at all times maintain an active,  
11 current license status with the Board, including during any period of suspension.  
12 Upon successful completion of probation, Respondent's license shall be fully  
13 restored.

14 8. Respondent's probation is subject to revocation because he failed to  
15 comply with Probation Condition No. 2, referenced above. Based on the respondent's conduct set  
16 forth in paragraph 6, above, respondent failed to comply with the conditions of probation as  
17 stated herein.

18 THIRD CAUSE TO REVOKE PROBATION

19 (Report in Person)

20 9. At all times after the effective date of Respondent's probation, Condition  
21 No. 3 stated:

22 Respondent, during the period of probation, shall appear in person at  
23 interviews/meetings as directed by the Board or its designated representatives.

24 10. Respondent's probation is subject to revocation because he failed to  
25 comply with Probation Condition No. 3, referenced above, in that on or about September 22,  
26 2005, the respondent failed to report for a scheduled interview with the Board's designated  
27 representatives.

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1 and Respondent has presented sufficient documentation of his good faith efforts to  
2 comply with this condition, and if no other conditions have been violated, the  
3 Board, in its discretion, may grant an extension of Respondent's probation period  
4 up to one year without further hearing in order to comply with this condition.  
5 During the one year extension, all original conditions of probation will apply.

6 14. Respondent's probation is subject to revocation because he failed to  
7 comply with Probation Condition No. 11, referenced above, in that respondent failed to make  
8 cost recovery payments.

9 SIXTH CAUSE TO REVOKE PROBATION

10 (Physical Examination)

11 15. At all times after the effective date of Respondent's probation, Condition  
12 No. 14 stated:

13 Within 45 days of the effective date of this Decision, Respondent, at his expense,  
14 shall have a licensed physician, nurse practitioner, or physician assistant, who is  
15 approved by the Board before the assessment is performed, submit an assessment  
16 of the Respondent's physical condition and capability to perform the duties of a  
17 registered nurse. Such an assessment shall be submitted in a format acceptable to  
18 the Board. If medically determined, a recommended treatment program will be  
19 instituted and followed by the Respondent with the physician, nurse practitioner,  
20 or physician assistant providing written reports to the Board on forms provided by  
21 the Board.

22 If Respondent is determined to be unable to practice safely as a registered nurse,  
23 the licensed physician, nurse practitioner, or physician assistant making this  
24 determination shall immediately notify the Board and Respondent by telephone,  
25 and the Board shall request that the Attorney General's office prepare an  
26 accusation or petition to revoke probation. Respondent shall immediately cease  
27 practice and shall not resume practice until notified by the Board. During this  
28 period of suspension, Respondent shall not engage in any practice for which a

1 license issued by the Board is required until the Board has notified Respondent  
2 that a medical determination permits Respondent to resume practice. This period  
3 of suspension will not apply to the reduction of this probationary time period.  
4 If Respondent fails to have the above assessment submitted to the Board within  
5 the 45-day requirement, Respondent shall immediately cease practice and shall  
6 not resume practice until notified by the Board. This period of suspension will  
7 not apply to the reduction of this probationary time period. The Board may waive  
8 or postpone this suspension only if significant, documented evidence of mitigation  
9 is provided. Such evidence must establish good faith efforts by Respondent to  
10 obtain the assessment, and a specific date for compliance must be provided. Only  
11 one such waiver or extension may be permitted.

12 16. Respondent's probation is subject to revocation because he failed to  
13 comply with Probation Condition No. 14, referenced above, in that respondent failed to provide  
14 the Board evidence that he took a required Physical Health Examination.

15 SEVENTH CAUSE TO REVOKE PROBATION

16 (Participate in Treatment/Rehabilitation Program for Chemical Dependence)

17 17. At all times after the effective date of Respondent's probation, Condition  
18 Condition No. 15 stated:

19 Respondent, at his expense, shall successfully complete during the probationary  
20 period or shall have successfully completed prior to commencement of probation  
21 a Board-approved treatment/rehabilitation program of at least six months duration.  
22 As required, reports shall be submitted by the program on forms provided by the  
23 Board. If Respondent has not completed a Board-approved  
24 treatment/rehabilitation program prior to commencement of probation,  
25 Respondent, within 45 days from the effective date of the decision, shall be  
26 enrolled in a program. If a program is not successfully completed within the first  
27 nine months of probation, the Board shall consider Respondent in violation of  
28 probation.

1 Based on Board recommendation, each week Respondent shall be required to  
2 attend at least one, but no more than five 12-step recovery meetings or equivalent  
3 (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support  
4 group as approved and directed by the Board. If a nurse support group is not  
5 available, an additional 12-step meeting or equivalent shall be added. Respondent  
6 shall submit dated and signed documentation confirming such attendance to the  
7 Board during the entire period of probation. Respondent shall continue with the  
8 recovery plan recommended by the treatment/rehabilitation program or a licensed  
9 mental health examiner and/or other ongoing recovery groups.

10 18. Respondent's probation is subject to revocation because he failed to  
11 comply with Probation Condition No. 15, referenced above, in that respondent failed to  
12 participate or provide evidence to the Board that he participated in a required Treatment -  
13 Rehabilitation program for chemical dependency.

#### 14 EIGHTH CAUSE TO REVOKE PROBATION

15 (Abstain from Use of Psychotropic (Mood-Altering) Drugs)

16 19. At all times after the effective date of Respondent's probation, Condition  
17 No. 16 stated:

18 Respondent shall completely abstain from the possession, injection or  
19 consumption by any route of all controlled substances and all psychotropic (mood  
20 altering) drugs, including alcohol, except when the same are ordered by a health  
21 care professional legally authorized to do so as part of documented medical  
22 treatment. Respondent shall have sent to the Board, in writing and within  
23 fourteen (14) days, by the prescribing health professional, a report identifying the  
24 medication, dosage, the date the medication was prescribed, the Respondent's  
25 prognosis, the date the medication will no longer be required, and the effect on the  
26 recovery plan, if appropriate.

27 Respondent shall identify for the Board a single physician, nurse practitioner or  
28 physician assistant who shall be aware of Respondent's history of substance abuse

1 and will coordinate and monitor any prescriptions for Respondent for dangerous  
2 drugs, controlled substances or mood-altering drugs. The coordinating physician,  
3 nurse practitioner, or physician assistant shall report to the Board on a quarterly  
4 basis Respondent's compliance with this condition. If any substances considered  
5 addictive have been prescribed, the report shall identify a program for the time  
6 limited use of any such substances.

7 The Board may require the single coordinating physician, nurse practitioner, or  
8 physician assistant to be a specialist in addictive medicine, or to consult with a  
9 specialist in addictive medicine.

10 20. Respondent's probation is subject to revocation because he failed to  
11 comply with Probation Condition No. 16, referenced above. The facts and circumstances  
12 regarding this violation are as follows:

13 A. Respondent failed to abstain from the use of alcohol, in that on or  
14 about January 5, 2006, respondent tested positive for alcohol use.

15 B. On or about December 28, 2005 and June 26, 2006 respondent  
16 submitted tests that resulted in diluted specimens.

17 C. On or about July 26, 2006, respondent admitted during a telephone  
18 conversation with Board's the staff that he may have had a glass of wine with dinner or a beer.

19 NINTH CAUSE TO REVOKE PROBATION

20 (Submit to Tests and Samples)

21 21. At all times after the effective date of Respondent's probation, Condition  
22 No. 17 stated:

23 Respondent, at his expense, shall participate in a random, biological fluid testing  
24 or a drug screening program which the Board approves. The length of time and  
25 frequency will be subject to approval by the Board. Respondent is responsible for  
26 keeping the Board informed of Respondent's current telephone number at all  
27 times. Respondent shall also ensure that messages may be left at the telephone  
28 number when he is not available and ensure that reports are submitted directly by

1 the testing agency to the Board, as directed. Any confirmed positive finding shall  
2 be reported immediately to the Board by the program and Respondent shall be  
3 considered in violation of probation.

4 In addition, Respondent, at any time during the period of probation, shall fully  
5 cooperate with the Board or any of its representatives, and shall, when requested,  
6 submit to such tests and samples as the Board or its representatives may require  
7 for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other  
8 controlled substances.

9 If Respondent has a positive drug screen for any substance not legally authorized  
10 and not reported to the coordinating physician, nurse practitioner, or physician  
11 assistant, and the Board files a petition to revoke probation or an accusation, the  
12 Board may suspend Respondent from practice pending the final decision on the  
13 petition to revoke probation or the accusation. This period of suspension will not  
14 apply to the reduction of this probationary time period.

15 If Respondent fails to participate in a random, biological fluid testing or drug  
16 screening program within the specified time frame, Respondent shall immediately  
17 cease practice and shall not resume practice until notified by the Board. After  
18 taking into account documented evidence of mitigation, if the Board files a  
19 petition to revoke probation or an accusation, the Board may suspend Respondent  
20 from practice pending the final decision on the petition to revoke probation or the  
21 accusation. This period of suspension will not apply to the reduction of this  
22 probationary time period.

23 22. Respondent's probation is subject to revocation because he failed to  
24 comply with Probation Condition No. 17, referenced above. The facts and circumstances  
25 regarding this violation are that respondent failed to participate in the random drug-screening  
26 program by either failing to appear for testing or by failing to keep his account with First Lab  
27 current for the following dates: October 12, 2004; December 27, 2004; January 3, 2005; February  
28 15, 2005; February 21, 2005; May 9, 2005; June 1, 2005; June 23, 2005; July 7, 2005; August

1 2, 2005; August 31, 2005; September 15, 2005; October 11, 2005; November 1, 2005; November  
2 29, 2005; February 7, 2006; February 16, 2006; March 9, 2006; April 6, 2006; April 17, 2006;  
3 May 24, 2006; and June 13, 2006.

4 PRAYER

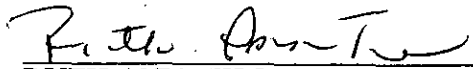
5 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
6 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

7 1. Revoking the probation that was granted by the Board of Registered  
8 Nursing in Case No. 2003-132 and imposing the disciplinary order that was stayed thereby  
9 revoking Registered Nurse License No. 580266 issued to John Gabriel Montez;

10 2. Revoking or suspending Registered Nurse License No. 580266, issued to  
11 John Gabriel Montez;

12 3. Taking such other and further action as deemed necessary and proper.

13  
14 DATED: 3/26/07

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18 RUTH ANN TERRY, M.P.H., R.N.  
19 Executive Officer  
20 Board of Registered Nursing  
21 Department of Consumer Affairs  
22 State of California  
23 Complainant

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**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

JOHN GABRIEL MONTEZ  
2929 Monogram Avenue  
Long Beach, CA 90815

Registered Nursing License No. 580266

Respondent.

Case No. 2003-132

OAH No. L-2003040777

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on June 13, 2004.

It is so ORDERED May 14, 2004.

*Sandra R. Erickson*

\_\_\_\_\_  
FOR THE BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS

1 BILL LOCKYER, Attorney General  
2 of the State of California  
3 ALAN A. MANGELS, State Bar No. 57690  
4 Deputy Attorney General  
5 California Department of Justice  
6 300 So. Spring Street, Suite 1702  
7 Los Angeles, CA 90013  
8 Telephone: (213) 897-2554  
9 Facsimile: (213) 897-2804  
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11 Attorneys for Complainant

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**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

JOHN GABRIEL MONTEZ  
2929 Monogram Avenue  
Long Beach, CA 90815

Registered Nursing License No. 580266

Respondent.

Case No. 2003-132

OAH No. L-2003040777

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Board of Registered Nursing of the Department of Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation

**PARTIES**

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of the Board of Registered Nursing. She brought this action solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Alan A. Mangels, Deputy Attorney General.

2. Respondent John Gabriel Montez (Respondent) is represented in this proceeding by attorney Angela P. Alexander, Esq., whose address is 5532 Woodruff Ave., Suite

1 625, Lakewood, CA 90713.

2 3. On or about April 26, 2001, the Board of Registered Nursing issued  
3 Registered Nursing License No. 580266 to John Gabriel Montez (Respondent). The License was  
4 in full force and effect at all times relevant to the charges brought in Accusation No. 2003-132  
5 and will expire on February 28, 2005, unless renewed.

6 JURISDICTION

7 4. Accusation No. 2003-132 was filed before the Board of Registered  
8 Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent.  
9 The Accusation and all other statutorily required documents were properly served on Respondent  
10 on December 18, 2002. Respondent timely filed his Notice of Defense contesting the  
11 Accusation. On or about September 15, 2003, a First Supplemental and Amended Accusation  
12 was also served on Respondent. A copy of Accusation No. 2003-132 as supplemented and  
13 amended is attached as exhibit A and incorporated herein by reference.

14 ADVISEMENT AND WAIVERS

15 5. Respondent has carefully read, fully discussed with counsel, and  
16 understands the charges and allegations in Accusation No. 2003-132 as amended. Respondent  
17 has also carefully read, fully discussed with counsel, and understands the effects of this  
18 Stipulated Settlement and Disciplinary Order.

19 6. Respondent is fully aware of his legal rights in this matter, including the  
20 right to a hearing on the charges and allegations in the Accusation; the right to be represented by  
21 counsel at his own expense; the right to confront and cross-examine the witnesses against him;  
22 the right to present evidence and to testify on his own behalf; the right to the issuance of  
23 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
24 reconsideration and court review of an adverse decision; and all other rights accorded by the  
25 California Administrative Procedure Act and other applicable laws.

26 7. Respondent voluntarily, knowingly, and intelligently waives and gives up  
27 each and every right set forth above.

28 ///

1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in  
3 Accusation No. 2003-132 as supplemented and amended.

4 9. Respondent agrees that his Registered Nurse License is subject to  
5 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the  
6 Disciplinary Order below.

7 CONTINGENCY

8 10. This stipulation shall be subject to approval by the Board of Registered  
9 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the  
10 Board of Registered Nursing may communicate directly with the Board regarding this stipulation  
11 and settlement, without notice to or participation by Respondent or his counsel. By signing the  
12 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek  
13 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
14 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
15 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
16 action between the parties, and the Board shall not be disqualified from further action by having  
17 considered this matter.

18 11. The parties understand and agree that facsimile copies of this Stipulated  
19 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
20 force and effect as the originals.

21 12. In consideration of the foregoing admissions and stipulations, the parties  
22 agree that the Board may, without further notice or formal proceeding, issue and enter the  
23 following Disciplinary Order:

24 DISCIPLINARY ORDER

25 IT IS HEREBY ORDERED that Registered Nurse License No. 580266 issued to  
26 Respondent John Gabriel Montez is revoked. However, the revocation is stayed and Respondent  
27 is placed on probation for five (5) years on the following terms and conditions.

28 ///

1                   **Severability Clause.** Each condition of probation contained herein is a separate  
2 and distinct condition. If any condition of this Order, or any application thereof, is declared  
3 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other  
4 applications thereof, shall not be affected. Each condition of this Order shall separately be valid  
5 and enforceable to the fullest extent permitted by law.

6                   1.       **Obey All Laws.** Respondent shall obey all federal, state and local laws.  
7 A full and detailed account of any and all violations of law shall be reported by Respondent to  
8 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of  
9 compliance with this condition, Respondent shall submit completed fingerprint forms and  
10 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted  
11 as part of the licensure application process.

12                   **Criminal Court Orders:** If Respondent is under criminal court orders, including  
13 probation or parole, and the order is violated, this shall be deemed a violation of these probation  
14 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

15                   2.       **Comply with the Board's Probation Program.** Respondent shall fully  
16 comply with the conditions of the Probation Program established by the Board and cooperate  
17 with representatives of the Board in its monitoring and investigation of the Respondent's  
18 compliance with the Board's Probation Program. Respondent shall inform the Board in writing  
19 within no more than 15 days of any address change and shall at all times maintain an active,  
20 current license status with the Board, including during any period of suspension.

21                   Upon successful completion of probation, Respondent's license shall be fully  
22 restored.

23                   3.       **Report in Person.** Respondent, during the period of probation, shall  
24 appear in person at interviews/meetings as directed by the Board or its designated  
25 representatives.

26                   4.       **Residency, Practice, or Licensure Outside of State.** Periods of  
27 residency or practice as a registered nurse outside of California shall not apply toward a reduction  
28 of this probation time period. Respondent's probation is tolled, if and when he resides outside of

1 California. Respondent must provide written notice to the Board within 15 days of any change of  
2 residency or practice outside the state, and within 30 days prior to re-establishing residency or  
3 returning to practice in this state.

4 Respondent shall provide a list of all states and territories where he has ever been  
5 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further  
6 provide information regarding the status of each license and any changes in such license status  
7 during the term of probation. Respondent shall inform the Board if he applies for or obtains a  
8 new nursing license during the term of probation.

9 5. **Submit Written Reports.** Respondent, during the period of probation,  
10 shall submit or cause to be submitted such written reports/declarations and verification of actions  
11 under penalty of perjury, as required by the Board. These reports/declarations shall contain  
12 statements relative to Respondent's compliance with all the conditions of the Board's Probation  
13 Program. Respondent shall immediately execute all release of information forms as may be  
14 required by the Board or its representatives.

15 Respondent shall provide a copy of this Decision to the nursing regulatory agency  
16 in every state and territory in which he has a registered nurse license.

17 6. **Function as a Registered Nurse.** Respondent, during the period of  
18 probation, shall engage in the practice of registered nursing in California for a minimum of 24  
19 hours per week for 6 consecutive months or as determined by the Board.

20 For purposes of compliance with the section, "engage in the practice of registered  
21 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or  
22 work in any non-direct patient care position that requires licensure as a registered nurse.

23 The Board may require that advanced practice nurses engage in advanced practice  
24 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the  
25 Board.

26 If Respondent has not complied with this condition during the probationary term,  
27 and Respondent has presented sufficient documentation of his good faith efforts to comply with  
28 this condition, and if no other conditions have been violated, the Board, in its discretion, may

1 grant an extension of Respondent's probation period up to one year without further hearing in  
2 order to comply with this condition. During the one year extension, all original conditions of  
3 probation shall apply.

4           7.     **Employment Approval and Reporting Requirements.** Respondent  
5 shall obtain prior approval from the Board before commencing or continuing any employment,  
6 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
7 performance evaluations and other employment related reports as a registered nurse upon request  
8 of the Board.

9           Respondent shall provide a copy of this Decision to his employer and immediate  
10 supervisors prior to commencement of any nursing or other health care related employment.

11           In addition to the above, Respondent shall notify the Board in writing within  
12 seventy-two (72) hours after he obtains any nursing or other health care related employment.  
13 Respondent shall notify the Board in writing within seventy-two (72) hours after he is terminated  
14 or separated, regardless of cause, from any nursing, or other health care related employment with  
15 a full explanation of the circumstances surrounding the termination or separation.

16           8.     **Supervision.** Respondent shall obtain prior approval from the Board  
17 regarding Respondent's level of supervision and/or collaboration before commencing or  
18 continuing any employment as a registered nurse, or education and training that includes patient  
19 care.

20           Respondent shall practice only under the direct supervision of a registered nurse  
21 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative  
22 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)  
23 are approved.

24           Respondent's level of supervision and/or collaboration may include, but is not  
25 limited to the following:

26           (a)   Maximum - The individual providing supervision and/or collaboration is  
27 present in the patient care area or in any other work setting at all times.

28    ///

1 (b) Moderate - The individual providing supervision and/or collaboration is in  
2 the patient care unit or in any other work setting at least half the hours Respondent works.

3 (c) Minimum - The individual providing supervision and/or collaboration has  
4 person-to-person communication with Respondent at least twice during each shift worked.

5 (d) Home Health Care - If Respondent is approved to work in the home health  
6 care setting, the individual providing supervision and/or collaboration shall have person-to-  
7 person communication with Respondent as required by the Board each work day. Respondent  
8 shall maintain telephone or other telecommunication contact with the individual providing  
9 supervision and/or collaboration as required by the Board during each work day. The individual  
10 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-  
11 site visits to patients' homes visited by Respondent with or without Respondent present.

12 9. **Employment Limitations.** Respondent shall not work for a nurse's  
13 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a  
14 traveling nurse, or for an in-house nursing pool.

15 Respondent shall not work for a licensed home health agency as a visiting nurse  
16 unless the registered nursing supervision and other protections for home visits have been  
17 approved by the Board. Respondent shall not work in any other registered nursing occupation  
18 where home visits are required.

19 Respondent shall not work in any health care setting as a supervisor of registered  
20 nurses. The Board may additionally restrict Respondent from supervising licensed vocational  
21 nurses and/or unlicensed assistive personnel on a case-by-case basis.

22 Respondent shall not work as a faculty member in an approved school of nursing  
23 or as an instructor in a Board approved continuing education program.

24 Respondent shall work only on a regularly assigned, identified and predetermined  
25 worksite(s) and shall not work in a float capacity.

26 If Respondent is working or intends to work in excess of 40 hours per week, the  
27 Board may request documentation to determine whether there should be restrictions on the hours  
28 of work.

1                   10.     **Complete a Nursing Course(s).** Respondent, at his own expense, shall  
2 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later  
3 than six months prior to the end of his probationary term.

4                   Respondent shall obtain prior approval from the Board before enrolling in the  
5 course(s). Respondent shall submit to the Board the original transcripts or certificates of  
6 completion for the above required course(s). The Board shall return the original documents to  
7 Respondent after photocopying them for its records.

8                   11.     **Cost Recovery.** Respondent shall pay to the Board costs associated with  
9 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the  
10 amount of \$4,530.50. Respondent shall be permitted to pay these costs in a payment plan  
11 approved by the Board, with payments to be completed no later than three months prior to the  
12 end of the probation term.

13                   If Respondent has not complied with this condition during the probationary term,  
14 and Respondent has presented sufficient documentation of his good faith efforts to comply with  
15 this condition, and if no other conditions have been violated, the Board, in its discretion, may  
16 grant an extension of Respondent's probation period up to one year without further hearing in  
17 order to comply with this condition. During the one year extension, all original conditions of  
18 probation will apply.

19                   12.     **Violation of Probation.** If Respondent violates the conditions of his  
20 probation, the Board after giving Respondent notice and an opportunity to be heard, may set  
21 aside the stay order and impose the stayed discipline (revocation) of Respondent's license.

22                   If during the period of probation, an accusation or petition to revoke probation has  
23 been filed against Respondent's license or the Attorney General's Office has been requested to  
24 prepare an accusation or petition to revoke probation against Respondent's license, the  
25 probationary period shall automatically be extended and shall not expire until the accusation or  
26 petition has been acted upon by the Board.

27                   13.     **License Surrender.** During Respondent's term of probation, if he ceases  
28 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of

1 probation, Respondent may surrender his license to the Board. The Board reserves the right to  
2 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to  
3 take any other action deemed appropriate and reasonable under the circumstances, without  
4 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent  
5 will no longer be subject to the conditions of probation.

6 Surrender of Respondent's license shall be considered a disciplinary action and  
7 shall become a part of Respondent's license history with the Board. A registered nurse whose  
8 license has been surrendered may petition the Board for reinstatement no sooner than the  
9 following minimum periods from the effective date of the disciplinary decision:

10 (1) Two years for reinstatement of a license that was surrendered for any  
11 reason other than a mental or physical illness; or

12 (2) One year for a license surrendered for a mental or physical illness.

13 14. **Physical Examination.** Within 45 days of the effective date of this  
14 Decision, Respondent, at his expense, shall have a licensed physician, nurse practitioner, or  
15 physician assistant, who is approved by the Board before the assessment is performed, submit an  
16 assessment of the Respondent's physical condition and capability to perform the duties of a  
17 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If  
18 medically determined, a recommended treatment program will be instituted and followed by the  
19 Respondent with the physician, nurse practitioner, or physician assistant providing written  
20 reports to the Board on forms provided by the Board.

21 If Respondent is determined to be unable to practice safely as a registered nurse,  
22 the licensed physician, nurse practitioner, or physician assistant making this determination shall  
23 immediately notify the Board and Respondent by telephone, and the Board shall request that the  
24 Attorney General's office prepare an accusation or petition to revoke probation. Respondent  
25 shall immediately cease practice and shall not resume practice until notified by the Board.  
26 During this period of suspension, Respondent shall not engage in any practice for which a license  
27 issued by the Board is required until the Board has notified Respondent that a medical  
28 determination permits Respondent to resume practice. This period of suspension will not apply

1 to the reduction of this probationary time period.

2 If Respondent fails to have the above assessment submitted to the Board within  
3 the 45-day requirement, Respondent shall immediately cease practice and shall not resume  
4 practice until notified by the Board. This period of suspension will not apply to the reduction of  
5 this probationary time period. The Board may waive or postpone this suspension only if  
6 significant, documented evidence of mitigation is provided. Such evidence must establish good  
7 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be  
8 provided. Only one such waiver or extension may be permitted.

9 15. **Participate in Treatment/Rehabilitation Program for Chemical**  
10 **Dependence.** Respondent, at his expense, shall successfully complete during the probationary  
11 period or shall have successfully completed prior to commencement of probation a Board-  
12 approved treatment/rehabilitation program of at least six months duration. As required, reports  
13 shall be submitted by the program on forms provided by the Board. If Respondent has not  
14 completed a Board-approved treatment/rehabilitation program prior to commencement of  
15 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in  
16 a program. If a program is not successfully completed within the first nine months of probation,  
17 the Board shall consider Respondent in violation of probation.

18 Based on Board recommendation, each week Respondent shall be required to  
19 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics  
20 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed  
21 by the Board. If a nurse support group is not available, an additional 12-step meeting or  
22 equivalent shall be added. Respondent shall submit dated and signed documentation confirming  
23 such attendance to the Board during the entire period of probation. Respondent shall continue  
24 with the recovery plan recommended by the treatment/rehabilitation program or a licensed  
25 mental health examiner and/or other ongoing recovery groups.

26 16. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent  
27 shall completely abstain from the possession, injection or consumption by any route of all  
28 psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a

1 health care professional legally authorized to do so as part of documented medical treatment.  
2 Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the  
3 prescribing health professional, a report identifying the medication, dosage, the date the  
4 medication was prescribed, the Respondent's prognosis, the date the medication will no longer  
5 be required, and the effect on the recovery plan, if appropriate.

6 Respondent shall identify for the Board a single physician, nurse practitioner or  
7 physician assistant who shall be aware of Respondent's history of substance abuse and will  
8 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled  
9 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician  
10 assistant shall report to the Board on a quarterly basis Respondent's compliance with this  
11 condition. If any substances considered addictive have been prescribed, the report shall identify a  
12 program for the time limited use of any such substances.

13 The Board may require the single coordinating physician, nurse practitioner, or  
14 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in  
15 addictive medicine.

16 17. **Submit to Tests and Samples.** Respondent, at his expense, shall  
17 participate in a random, biological fluid testing or a drug screening program which the Board  
18 approves. The length of time and frequency will be subject to approval by the Board.  
19 Respondent is responsible for keeping the Board informed of Respondent's current telephone  
20 number at all times. Respondent shall also ensure that messages may be left at the telephone  
21 number when he is not available and ensure that reports are submitted directly by the testing  
22 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately  
23 to the Board by the program and Respondent shall be considered in violation of probation.

24 In addition, Respondent, at any time during the period of probation, shall fully  
25 cooperate with the Board or any of its representatives, and shall, when requested, submit to such  
26 tests and samples as the Board or its representatives may require for the detection of alcohol,  
27 narcotics, hypnotics, dangerous drugs, or other controlled substances.

28 ///

1           If Respondent has a positive drug screen for any substance not legally authorized  
2 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the  
3 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent  
4 from practice pending the final decision on the petition to revoke probation or the accusation.  
5 This period of suspension will not apply to the reduction of this probationary time period.

6           If Respondent fails to participate in a random, biological fluid testing or drug  
7 screening program within the specified time frame, Respondent shall immediately cease practice  
8 and shall not resume practice until notified by the Board. After taking into account documented  
9 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the  
10 Board may suspend Respondent from practice pending the final decision on the petition to  
11 revoke probation or the accusation. This period of suspension will not apply to the reduction of  
12 this probationary time period.

13           18.     **Mental Health Examination.** The Respondent shall, within 45 days of  
14 the effective date of this decision, have a mental health examination including psychological  
15 testing as appropriate to determine his capability to perform the duties of a registered nurse. The  
16 examination will be performed by a psychiatrist, psychologist or other licensed mental health  
17 practitioner approved by the Board. The examining mental health practitioner will submit a  
18 written report of that assessment and recommendations to the Board. All costs are the  
19 responsibility of the Respondent. Recommendations for treatment, therapy or counseling made  
20 as a result of the mental health examination will be instituted and followed by the Respondent.

21           If Respondent is determined to be unable to practice safely as a registered nurse,  
22 the licensed mental health practitioner making this determination shall immediately notify the  
23 Board and Respondent by telephone, and the Board shall request that the Attorney General's  
24 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease  
25 practice and may not resume practice until notified by the Board. During this period of  
26 suspension, Respondent shall not engage in any practice for which a license issued by the Board  
27 is required, until the Board has notified Respondent that a mental health determination permits  
28 Respondent to resume practice. This period of suspension will not apply to the reduction of this

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1 probationary time period.

2 If the Respondent fails to have the above assessment submitted to the Board  
3 within the 45-day requirement, Respondent shall immediately cease practice and shall not resume  
4 practice until notified by the Board. This period of suspension will not apply to the reduction of  
5 this probationary time period. The Board may waive or postpone this suspension only if  
6 significant, documented evidence of mitigation is provided. Such evidence must establish good  
7 faith efforts by the Respondent to obtain the assessment, and a specific date for compliance must  
8 be provided. Only one such waiver or extension may be permitted.

9 **ACCEPTANCE**

10 I have carefully read the above Stipulated Settlement and Disciplinary Order and  
11 have fully discussed it with my attorney, Angela P. Alexander, Esq. I understand the stipulation  
12 and the effect it will have on my Registered Nurse License. I enter into this Stipulated  
13 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be  
14 bound by the Decision and Order of the Board of Registered Nursing.

15 DATED: 9/26/03

16   
17  
18 JOHN GABRIEL MONTEZ  
19 Respondent

20  
21  
22 I have read and fully discussed with Respondent John Gabriel Montez the terms  
23 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
24 Order. I approve its form and content.

25 DATED: 9-26-03


26  
27   
28 ANGELA P. ALEXANDER, ESQ.  
Attorney for Respondent

1 ENDORSEMENT

2 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
3 submitted for consideration by the Board of Registered Nursing of the Department of Consumer  
4 Affairs.

5 DATED: December 22, 2003.

6 BILL LOCKYER, Attorney General  
7 of the State of California

8   
9 ALAN A. MANGELS  
10 Deputy Attorney General

11 Attorneys for Complainant  
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23 DOJ Docket/Matter ID Number: 03579110-LA2002AD1734  
24 60012542.wpd  
25 CML (09/23/2003)  
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**Exhibit A**  
**First Supplemental and Amended Accusation No. 2003-132**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 ALAN A. MANGELS, State Bar No. 57690  
Deputy Attorney General  
3 California Department of Justice  
300 So. Spring Street, Suite 1702  
4 Los Angeles, CA 90013  
Telephone: (213) 897-2554  
5 Facsimile: (213) 897-2804  
6 Attorneys for Complainant

7  
8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 JOHN GABRIEL MONTEZ  
2929 Monogram Avenue  
13 Long Beach, CA 90815

14 Registered Nurse License No. 580266

15 Respondent.

Case No. 2003-132

OAH No. L-2003040777

**FIRST SUPPLEMENTAL  
and AMENDED ACCUSATION**

16  
17 Ruth Ann Terry, M.P.H., R.N. (Complainant) brings these further and additional  
18 charges in her official capacity and not otherwise.

19 10. Sections 490 and 2761(f), in pertinent part, provide that the conviction of  
20 any crime substantially related to the qualification, functions, and duties of a registered nurse is  
21 unprofessional conduct.

22 11. Respondent is further subject to disciplinary action under Code sections  
23 490, 2750, and 2761(f) on the grounds of unprofessional conduct as follows:

24 A. On or about May 9, 2003 in case No. 1101833, entitled *People v.*  
25 *John Gabriel Montez* before the Superior Court of Santa Barbara County (Figueroa Division),  
26 Respondent, following his plea of no contest was convicted of a violation of Vehicle Code  
27 §23103 (Reckless Driving).

28 ///


1 B. Said conviction is substantially related to the practice of registered  
2 nursing in that Respondent, on or about January 6, 2003, was driving a vehicle under the  
3 influence of an alcoholic beverage, having a Blood Alcohol content in excess of .12%.

4 PRAYER

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
6 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 7 1. Revoking or suspending Registered Nurse License Number 580266, issued  
8 to John Gabriel Montez;
- 9 2. Ordering John Gabriel Montez to pay the Board of Registered Nursing the  
10 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
11 Professions Code section 125.3;
- 12 3. Taking such other and further action as deemed necessary and proper.

13 DATED: 15 Sept 03

14  
15   
16 RUTH ANN TERRY, M.P.H., R.N.  
17 Executive Officer  
18 Board of Registered Nursing  
19 Department of Consumer Affairs  
20 State of California  
21 Complainant

22 03579110-LA2002AD1734  
23 vlv (9/15/03)  
24 60011326.wpd  
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1 BILL LOCKYER, Attorney General  
of the State of California  
2 ALAN A. MANGELS, State Bar No. 57690  
Deputy Attorney General  
3 California Department of Justice  
300 So. Spring Street, Suite 1702  
4 Los Angeles, CA 90013  
Telephone: (213) 897-2554  
5 Facsimile: (213) 897-2804  
6 Attorneys for Complainant

7  
8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2003-132

12 JOHN GABRIEL MONTEZ  
2929 Monogram Avenue  
13 Long Beach, CA 90815

**A C C U S A T I O N**

14 Registered Nurse License No. 580266

15 Respondent.  
16

17 Complainant alleges:

18 **PARTIES**

- 19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation  
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,  
21 Department of Consumer Affairs.
- 22 2. On or about April 26, 2001, the Board of Registered Nursing issued  
23 Registered Nurse License No. 580266 to John Gabriel Montez (Respondent). The Registered  
24 Nurse license was in full force and effect at all times relevant to the charges brought herein and  
25 will expire on February 28, 2005, unless renewed.

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1           7.     Section 125.3 of the Code provides, in pertinent part, that the Board may  
2 request the administrative law judge to direct a licentiate found to have committed a violation or  
3 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
4 and enforcement of the case.

5           8.     CONTROLLED SUBSTANCE

6           a.     "Methamphetamine," is a Schedule II controlled substance as  
7 designated by Health and Safety Code section 11055(d)(2).

8                     FIRST CAUSE FOR DISCIPLINE

9                     (Possession and Use of Controlled Substance in a Dangerous/Injurious Manner)

10          9.     Respondent is subject to disciplinary action under sections 2750, 2762(a),  
11 and 2762(b), on the grounds of unprofessional conduct, in that Respondent was in possession of  
12 and used methamphetamine, to an extent or in a manner dangerous or injurious to himself or to  
13 the public. The circumstances are that on or about December 24, 2000, Respondent was found  
14 "nodding off" behind the wheel of his parked vehicle by Los Alamitos police. Respondent was  
15 arrested for possession of a controlled substance (methamphetamine). A search of his vehicle  
16 revealed a clear plastic baggy containing methamphetamine. Respondent admitted to the  
17 arresting officer that the methamphetamine was his, and that he had used it earlier that day.

18                     PRAYER

19           WHEREFORE, Complainant requests that a hearing be held on the matters herein  
20 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

21           1.     Revoking or suspending Registered Nurse License Number 580266, issued  
22 to John Gabriel Montez;

23           2.     Ordering John Gabriel Montez to pay the Board of Registered Nursing the  
24 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
25 Professions Code section 125.3;

26     ///

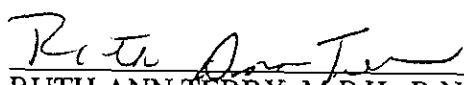
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3. Taking such other and further action as deemed necessary and proper.

DATED: 12/10/02

  
RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant